IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

RFA.No. 477 of 2005()

IA. 835 /1983 IN OS.58/1970 of SUB COURT, TIRUR

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APPELLANTS/DEFENDANTS 9 & 12:

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1. RAMAKRISHNAN NAIR, S/O.RAMAN NAIR,
EDAVUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

2. SREEDHARAN NAIR, DO. DO.

BY ADV. SRI.R.RAMADAS

RESPONDENTS/PLAINTIFF & DEFENDATNS 1 TO 8, 10,11 &
SUPPL. RESPONDENTS 12 TO 17:

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1. VIJAYALAKSHMI AMMA,
D/O.IRIKAKKIL NARAYANIKUTTY AMMA,
KIZHAKKEKKARA VEEDU, PUZHAKKATTIRI VEEDU,
PUZHAKKATTIRI AMSOM, KATTILASSERI DESOM,
PERINTHALMANNA TALUK.

2. KRISHNAN NAIR, S/O.IRIKAKKIL AMMU AMMA,
MANANTHAVADI, PALUKUNNU ESTATE,
WYNAD DISTRICT.

3. NARAYANIKUTTY AMMA, D/O.IRIKAKKIL
AMMU AMMA, EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

4. VIMALA, D/O.NARAYANIKUTTY AMMA,
EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

5. DURGA BAI, DO. DO.

6. VANAJA, DO. DO.

7. MAKKADATH NARAYANI AMMA,
W/O.LATE IRIKAKKIL RAMAN NAIR,
EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

8. KUNHILAKSHMI AMMA, D/O.MAKKADATH
NARAYANI AMMA, EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

9. NARAYANAN NAIR, S/O.MAKKADATH NARAYANI
AMMA, EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

10. DEVAKI AMMA, D/O.MAKKADATH NARAYANI
AMMA, EDAYUR AMSOM, PUVATHUMTHARA DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

11. KALYANIKUTTY AMMA, W/O.IRIKAKKIL
KRISHNAN NAIR, KRISHNABHAVAN, PALUKUNNU ESTATE,
P.O.ANCHUKUNNU, VIA MANANTHAVADI,
WYNAD DISTRICT.

12. ANANDAKUMAR, S/O.IRIKAKKIL KRISHNAN
NAIR, DO. DO.

13. BABY SULOCHANA, D/O.IRIKAKKIL KRISHNAN
NAIR, DO. DO.

14. GEETHA, DO. DO.

15. ANITHA, DO. DO.

16. SANTHOSHKUMAR, S/O. DO. DO.

ADDL.17. M.P.LAKSHMIKUTTY AMMA, W/O.RAMAKRISHNAN,
MADATHIL PADINHAREMUTTIYIL VEEDU, EDAYUR
AMSOMPUVATHUMTHARA DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT.

18. M.P.BALACHANDRAN, S/O.RAMAKRISHNAN,
DO. DO.

19. M.P.MURALEEDHARAN, S/O.RAMAKRISHNAN,
DO. DO.

20. M.P.VENUGOPALAN, S/O.RAMAKRISHNAN,
DO. DO.

21. M.P.JAYANARAYANAN, S/O.RAMAKRISHNAN,
DO. DO.

22. M.P.RADHAMANI, D/O.RAMAKRISHNAN,
DO. DO.

23. M.P.BEENA, D/O.RAMAKRISHNAN,
DO. DO.

(ADDL.R17 TO R23 IMPLEADED VIDE ORDER DATED 8.1.2007 ON I.A.NO.3468/06)

BY ADV. SMT.SUMATHY DANDAPANI
SRI.C.S.MANU

THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

I.A.3326 OF 2006 & R.F.A.No.477 OF 2005

Dated this the 8th day of January, 2007

JUDGMENT

This first appeal against a final decree for partition is by defendants 9 and 12. Along with I.A.3326/06, an affidavit is filed by the second appellant stating as follows:

> "Now the parties have decided to settle the matter amicably and the first respondent herein has agreed to give 18 cents lying on the north western corner of the 96 cents allotted to her to the share of the appellants, in addition to the 42 cents in Re-survey No.249/2 already allotted to the appellants as per the final decree. Thus as per the settlement arrived at between the parties the appellants will altogether get 60 cents (42 cents in re-survey No.249/2 and 18 cents in re-survey No.249/1) and the 1st respondent herein will get 78 cents in Re-survey No.249/1."

Along with the said petition, Annexure I sketch is produced.

2. Following the said petition, the plaintiff/first respondent has filed I.A.No.90/07 along with an affidavit dated 4.1.2007, in which, she vouchsafes to what is aforesaid.

3. Under such circumstances, the impugned final decree is to be modified in terms of Annexure I plan produced along with I.A.No.3326/06. In the result, the impugned final decree is modified in the following manner:

The plaintiff is allotted 17 cents in Re-survey No.249/1 and the remaining will stand to the other sharers as is marked in Annexure I in I.A.3326/06, which plan will be annexed to this judgment.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.